

**Remarks: Claims 1-7 and 9-16 are in condition for allowance**

This is in response to the Office Action dated April 23, 2009, in which claims 1-7 and 9-16 were pending and were rejected. The applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-7 and 9-16 and allowance of these claims in light of the remarks herein.

**Olson and Aoyama do not make obvious claims 1, 2, 7, and 9-16;**

**Olson, Aoyama, and Vallot do not make obvious claims 3-6**

In the Office Action, claims 1, 2, 7, and 9-16 were rejected under 35 U.S.C. §103(a) with reference to Olson (U.S. Patent No. 6,032,818) combined with Aoyama (U.K. Patent Application No. 2,117,736), and claims 3-6 were rejected under 35 U.S.C. §103(a) with reference to Olson combined with Aoyama and Vallot (U.S. Patent No. 5,988,422). The applicants respectfully submit that Olson and Aoyama do not make obvious claims 1, 2, 7, and 9-16, and that Olson, Aoyama and Vallot do not make obvious claims 3-6, due at least to the lack of a proper reason to combine the references without impermissible hindsight, and to the teaching away of the references from the claimed combination.

As articulated by the U.S. Supreme Court in *KSR*, multiple references (from analogous fields of art) may validly be combined if a person of both ordinary skill and creativity in the art would have had a motivation or reason to combine the references. *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007). As subsequently interpreted by the Court of Appeals for the Federal Circuit in *Ortho-McNeil*, this means that the combined references must show only a small or easily traversed number of identified, predictable solutions, to support a valid showing that a person in the art would have perceived a reason to combine them. *Ortho-McNeil Pharma. v. Mylan Labs*, 86 USPQ2d 1196, 1201 (Fed. Cir. 2008).

The two central references applied to the present claims, Olson and Aoyama, both have substantial differences from claim 1 and the other claims of the present application, such that the present claims do not lie within a small or easily traversed number of identified, predictable solutions discernable from the combination of references.

As one illustrative example thereof, Olson teaches an additional structural element in cover 45 that the device relies on for facilitating the filling of the inner packing (col. 4, lines 65-67). This tube-shaped cover must be caused to slide on the outside of the liner toward the opening 6, to be compressed into folds, to form a constriction that forces the fluid into the free liner portion at the bottom of the container for controlled filling, and to end up forced off the liner (col. 5, lines 43-56). Therefore, Olson teaches this extra element with its own extra structural and procedural complications, which are all extraneous to the present application and which multiply the number of options that must be traversed to start out from the cited art and get to the present claims. These aspects of Olson also pose a more complicated and cumbersome way of accomplishing what the channel of the present application inherently accomplishes with an advantageously simpler mechanism, that was manifestly not one of a small number of perceived solutions in the disclosure of Olson, whether or not also combined with Aoyama.

Aoyama on the other hand expresses concern for ease of pouring a liquid back out of the container (p. 6, lines 23-25), yet teaches meeting this need with only a single opening on the top of the container (p. 6, lines 18-25). Therefore Aoyama not only further multiplies the number of options covered by the combination of cited art, and excludes various aspects of the present claims from the options it envisions, but Aoyama also actually “teaches away” from a design with a second hole at the bottom of the container as a way of facilitating emptying the container of a fluid. This explicit teaching away from the present application forms positive evidence against the existence of a valid reason to combine, and must be considered as evidence of dissuasion from making the combination, as part of considering the evidence of the collected references as a whole, rather than using impermissible hindsight from the present application to cherry-pick only those elements from the collected references that would support obviousness.

Olson and Aoyama also do not disclose or suggest the subject matter of claims 2, 7, and 9-13 due at least to the subject matter incorporated therein by dependency on claim 1, or of claims 14-16 due at least to the subject matter thereof that is analogous to that of claim 1, and Olson, Aoyama and Vallot do not disclose or suggest the subject matter of claims 3-6 due at least to the subject matter incorporated therein by dependency on claim 1, pursuant to the discussion above of the non-

obviousness of claim 1. The applicants therefore respectfully submit that Olson, Aoyama, and Vallot do not make obvious claims 1-7 and 9-16, and respectfully request that the rejection of these claims be reconsidered and withdrawn.

**No narrowing interpretations implied**

The foregoing remarks are intended to assist the Office in examining the application and in the course of explanation may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the invention which are rendered patentable, being only examples of certain novel features and differences, which the applicants have opted to comment on as illustrative examples.

Furthermore, in commenting on the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the references and particular subject matter of the present application may have been commented on, even though such differences do not appear in all of the claims. It is not intended by commenting on any such distinctions to create any implied limitations in any particular claims of the present application.

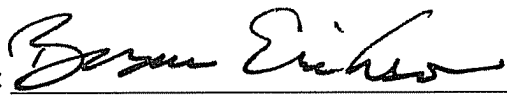
**Conclusion: Claims 1-7 and 9-16 are in condition for allowance**

In view of the above comments and remarks, the applicants respectfully submit that the pending claims are all presently in condition for allowance. The applicants therefore hereby request that the rejection of claims 1-7 and 9-16 be reconsidered and withdrawn and that these claims be allowed.

The Director is authorized to charge any fee deficiency required by this paper or any paper in the prosecution or appeal of this application or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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